MGN

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

WRIT PETITION NO. 2790 OF 2007

Jainath Prajpati ..Petitioner

Versus

State of Maharashtra & Ors. ..Respondents

WITH
WRIT PETITION NO.2815 OF 2007

Mahendra Prasad Mishra ..Petitioner

Versus

State of Maharashtra & Ors. ..Respondents

Mr. M.P. Vashi i/b. M/s.M.P. Vashi & Associates for the petitioners
Mr. V.P. Malwankar, AGP for respondent Nos. 1 and 2.
Mr. R.S. Apte with Mr. Yogesh Gole and Mr. D.K. Ailawadi for respondent Nos. 3 and 4.

CORAM : F.I. REBELLO &
R.M.SAVANT, JJ.
DATED : 20TH APRIL, 2007.

P.C.

. The management holding that the petitioners were surplus terminated their services. The petitioners preferred Appeals. Those Appeals were allowed, against which the management preferred Petitions before this Court being Writ Petition No.9391 of 2005 and Writ Petition No.9388 of 2005. The learned Single Judge by order dated 14th July, 2006 was pleased to dismiss the petitions. However, direction was given to the Education Officer to decide the controversy. The Education Officer has taken the decision that the petitioners are surplus. Consequently the action of the management in terminating the services of the petitioners was upheld.

2. The learned Counsel has tried to draw our attention to the judgment of this Court in **Atmaram Raghunath Pashte**

vs. Chairman, Alyani-Gegaon-Nandval, Ashnoli Shikshan Sanstha, Vithalgaon, Dist. Thane & Ors., (2003) (5) Mh. L.J. 451. In our opinion the ratio of that judgment would not apply to the facts of the present case as in the instant case there is retrenchment. Retrenchment amounts to termination against which there is a remedy by way of statutory appeal. In that light of the matter this would not be a fit case for this Court to exercise its extra ordinary jurisdiction. Both the petitions accordingly dismissed. Petitioners, however, if they prefer Appeals, the learned Tribunal to dispose off the same at any rate not later than four months from the filing of the Appeals.

3. On behalf of the management the learned Counsel makes a statement that if the Appeals are preferred the management would not raise any objection as to limitation and the matters would be heard on merits provided the Appeals are preferred by the next week.

. We are informed that the order of the learned Single Judge was the subject matter of Appeal. The Appeals are dismissed. The management against the said decision has approached the Honourable Supreme Court and the matter is pending.

. Considering the above it is for the parties to decide the steps that they propose to take.

(**F.I.REBELLO**, J)

(**R.M. SAVANT,J)**